P. C.

1938

Department of R.D.

OFFICE Bd Rev

STATION Madras

No. 2913

Dated 15·10·38

A456

Pages in the file

(SUBJECT.)

Escheat [illegible] Seanaya) Dattur (a-, Hatti vge - Ho

proposal [illegible] sale Ramanna Rao. Domts d

A4567

RD OF REVENUE
28 JUL 1938
MADRAS

Ref.C.3455-38-A3.

South Kanara Collector's Office,
Camp, Brahmavar, dated 24-7-1938.

From

Sri Rao Bahadur M.V.Vellodi, B.A.,
Collector of South Kanara.

To

The Secretary to the Board,
Land Revenue and Settlement,
Madras.

Sir,

Escheat - Puttur Taluk - Aletti village - Holding No.3 Properties of the late Kurnadka Ramanna Rai - report submitted.

Holding No.3 of Aletti village, Puttur Taluk, stands registered in the name of Kurnadka Ramanna Rai who died on 2-8-1937. The property consists of 5 acres of wet, 3.52 acres of garden and 0.83 acres of dry with a total assessment of Rs. 46-3-0. The property is reported to be worth Rs. 2000/- and encumbered only to an extent of Rs. 450/-.

2. The registered holder was a Bunt governed by the Aliyasanthana Law of Inheritance. He has left behind a young widow, Ummakke by name who is now in possession of the properties of the deceased. Soon after the death, Ummakke applied to the Tahsildar, Puttur in 18-8-1937 for a transfer of registry of Ramanna Rai's property comprised in holding No.3 of Aletti village to her name on the strength of an unregistered will, dated 10-2-1937 said to have been executed in her favour by the deceased.

3. The transfer application was opposed by one Sankaya Alva who in his application, dated 27-8-1937 urged that he was the younger brother of Ramanna Rai and so entitled to his properties. His case was that the will produced by Ummakke is false.

4. The opposing claims of Sankaya Alva were enquired into, and it was found that in 1908 when the members of the

family of Sankaya Alva executed a registered sale deed, no reference to Ramanna Rai had been made though the sale deed referred to the other members of the family of Sankaya Alva. Independent enquiry held in this connection also revealed that the story of relationship of Sankaya Alva to the deceased is false. The claims of Sankaya Alva do not therefore deserve consideration.

5. Then there remains only the widow, whose claims to the properties under the will dated 10-2-37 need be examined. It may be mentioned here that Ramanna Rai married Ummakke about 3 years ago. She was far junior to him in years and it is stated that at the time of the marriage, the deceased promised to bequeath his property to her. But, the genuineness of the will is open to suspicion.

6. The will which is alleged to have been signed by the deceased on 10-2-37 at his residence at Aletti village is attested by 4 witnesses and is in the handwriting of one Dasappaya who has signed the document last. All these five persons have been examined by the Tahsildar, Puttur. Three of these attestors - one of whom is a Potail of a neighbouring village - support the widow. The remaining attester - Devappa Gowda, states however that his signature to the will was obtained by fraud by the Potel mentioned above and one Kunhanna Rai, a brother of Ummakke, on the misrepresentation that it was a petition for the construction of a road. The writer of the will, Dasappaya when examined states that Potel Ramanna Shegrithaya brought to him a draft of the will, - that the will was written out by him on 10.2.1937, - that he was not present when it was signed by the deceased Ramanna Rai and that he closed the will under his signature on the assurance given to him by Potel Ramanna Shegrithaya to whom he handed over the will.

7. Apart from the examination of these persons other independent witnesses have also been examined. It has been elicited during the enquiry that some days after the death of Ramanna Rai, Potel Ramanna Shegrithaya had taken a will

to one Appaya Gowda and stating it to be that of Ramanna Rai asked for his attestation. Appaya Gowda states that at that time the will had not been attested by any one and that Potel Ramanna Shegrithaya assured him that he would himself attest it with some other Brahmins. Appaya Gowda appears to have however refused to attest the will. Another independent witnes examined, - Shankarnaraina Kedilaya states that the will was taken to him for attestation after the death of Ramanna Rai a that therefore he refused to attest it. Three other persons examined in this connection have also given statements to similar effect. There is therefore room for a reasonable suspicion that the will must have been got up at the instance of Potel Ramanna Shegrithaya who has unduly interested himsel in the matter. His interestedness is apparent from the fact that he has even produced the printed marriage invitation celebrating the marriage of Ummakke on 27.5.1935 with the deceased with a view to prove the marriage even which he apparently expects to be disputed.

7. The signature of Ramanna Rai to the will is one calling for a careful examination. There are among the recc of enquiry other signatures of Ramanna Rai affixed to docume executed by him during his life time. A careful comparison of these signatures with that on the will would indicate to extent even to the untrained eye that the signature in the is not a genuine one. It is therefore the will that should be made a subject of expert scrutiny before proceeding in the matter further.

8. I request that the Board may be pleased to obtain expert opinion on this. If the signature is a forgery, I shall proceed further and get more evidence. If genuine, matter has to be dropped. The signatures to be compared ar those at page 141 which is in the will and those at pages 189, 191, 194, 195 of the records of K.R.85/47 of the Tahsildar,

Puttur which are submitted herewith.

For Collector.

25.7.38

C.F. 16.

DRAFT FOR APPROVAL.

	Date.	Initials.
When received for fair copying ..	22/8	[illegible]
When copied ..	23/8	[illegible]
When examined..	23/8	[illegible]
When signed	24/8	
When despatched	DESPATCHED 24 AUG 1938	

Fwd

SUBJECT :— Escheat (S Kanara) - Puttur Tr. - Aletti village - Holding no. 3 - Property of the late K. Ramanna Rai -

READ AGAIN ______, dated ______ 19___.

" " ______ " ______ 19___.

READ *ALSO* :—

A No. 4567/38 From the Collector of Kanara No. Ref e 3455-38, dated A3 / 2-7-38 Q

" ______ " ______ " ______ " ______ 19___.

" ______ " ______ " ______ " ______ 19___.

Order Ms. No. 4567-38, dated 22-8-38 19___.
Resolution Rout.

The Collector of Kanara is requested to report whether the Aliyasantana Law a widow in question has no rights of inheritance whatever even when there are no male heirs and whether it is not unfair that [illegible] [illegible] her natural rights should be disregarded.

17-8-38

17-8-38

17-8-38

No. 092

For Insurance Notices see reverse.

Stamps affixed except in case of uninsured letters not exceeding 2½ tolas or one ounce in weight or on which no acknowledgment is due.

Rs. 0 As.

Date-stamp

4 AUG 33

Received a registered * ______ addressed to ______

Initials of Receiving Officer.

* Write here "letter," "postcard," "packet" or "parcel" with the word "Insured" before it when necessary.

Insured for Rs. *(in figures)* ______ *(in words)* ______

Insurance fee Rs. ______

Weight ______ *Rates* ______ *Tolas*

Uninsured.

Name and address of sender. ______

incl: 1 file K.R. 85/1347

R.P 67
324

Ref.C.3455-38-A3.

South Kanara Collector's Office,
Mangalore, 2nd September 1938.

BOARD OF REVENUE
7 SEP 1938
MADRAS

From

Sri Rao Bahadur M. V. Vellodi, B.A.,
Collector of South Kanara.

To

The Secretary to the Board,
Land Revenue & Settlement,
Madras.

Sir,

Escheat - South Kanara - Puttur Taluk - Aletti village - Holding No.3 - properties of the late K. Ramanna Rai.

b – 8 Reference: Board's Reference A.No.4567/38-1, dated 22.8.1938.

Ramanna Rai has no male heirs. Under the Aliyasantana law, the widow is not entitled to succeed to the property of her deceased husband even if it is self acquired unless he has made a testamentary disposition of the property in her favour. The fact that there are no heirs in the regular line will not alter the position as marriage does not bestow any legal rights to property in Aliyasantana Law. Following the law as it is practised it has not been the practice for the Government so far to recognise the rights of a wife to the assets of the husband in communities governed by the Aliyasantana law in this district, and unless the existing law is modified as in Malabar under the Marumakkathayam Act it will not be right to recognise any claim made by a widow. It is unfair to a widow which was exactly the reason why the system was changed by an Act. It was proposed to extend it to South Kanara but the proposal was vehemently opposed as it was apprehended that the various communities would be disintegrated. I fear we cannot do anything.

2. I enclose the records of K.R.85/47 on the file of the Tahsildar, Puttur.

For Collector. 2-5-39

DRAFT FOR APPROVAL. 9

O.F. 16.

	Date.	Initials.
When received for fair copying ..	18.10	98
When copied ..		
When examined..	24/10	
When signed ..		
When despatched	26/4	

SUBJECT :— Escheat (South Kanara) Puttur tn - Aletti vge - Holding No. 3 - properties of late K. Ramanna Rai - Procdgs. dropped.

READ AGAIN ________, dated ________ 19__.

" " ________ " ________ 19__.

READ *ALSO* :—

A No. 4567/38 From the Collr of South Kanara No. ref. c No 3455-38 A3 dated d 24-7-38 plcb ~ a

" ________ " P.S.T.R. Bd's Refce d 22 8/38. a

L " 326/38 " Collr of S. Kanara " Refce C 3455-38 A3 d 29/9/38. p.7 cb a

Order Ms. Resolution Rout. No. 2913, dated 18-10-1938.

Res (Ms)

The signature of Ramanna Rai on the will at page 146 of file No. K. No 85 of Fasli 1347 of the Tahsildar of Puttur bears a sufficient likeness to the other signatures with which it is compared to make it very difficult to convince a Court that the natural action which the will represents did not take place. In the circumstances the Board ~~considers~~ directs that the escheat procdgs. should be dropped and that the Govt's claim to the properties need not be asserted.

(7.0)

14/10/38.

18/10

Note file

Escheat (S. Kanara) - Puttur Tk - Aletti village
Holding No 3. - Properties of the late Kurnadka

To Secy

Please see the Collr's letter at pp 1-4 cf.

2 In para 6(c) of Sec II of BSO No 197 at p 1180 BSO Vol IV it is laid down that in all cases of escheats of real property subject to the Marumakkattayam or the Aliyasantana law arising from the absence of legal heirs, the property may be made over to natural heirs. In the present case, Ramanna Rai died leaving neither a legal heir (~~nor~~ sister's son) nor a natural heir. His property is, therefore, in the ordinary course, have to escheat to the Govt. The property has however been in the possession and enjoyment of the widow ~~of the deceased testator who~~ by virtue of an alleged will executed on 10.2.37 by the deceased about 6 months before his death. The question whether the Govt's right should be asserted depends on the question whether the will is genuine or forged. In the former case, the widow's right to the property is unquestionable while in the

latter:Ca. the property is liable to escheat to Govt and the Govt may have to file a suit for the recovery of the property from the widow and this can be done only if the Govt are able to produce ~~or to possess~~ se & oral evidence to prove that the will is a forged document & the onus lies heavily on the Govt: The Govt has in order to be able to discharge this burden, investigated the matter and has apparently taken statements from one of the four attesting witnesses to the will and from the Scribe, both of whom don't testify to the fact of the deceased having executed the document in their presence. It is doubtful if the evidence collected will, beyond throwing a shadow of doubt, be sufficient to disprove the genuineness of the will in a Civil Court completely. Further, it is equally unlikely that the Scribe & the attesting witness who has signed the will and on whom therefore responsibility lies will continue to give evidence as now stated before the Rev. Officer, which is hostile to the widow. The Govt therefore wants to strengthen his position by getting an expert opinion regarding the genuineness of the testator's signature in the will which as the Collr points out shows ~~that~~ shades of difference when compared with the other signatures at pp 189, 191, 194, & 195 of the file at (D). It is open to the widow to explain away the shade of difference as being due to the testator's old age or bodily infirmity or to any other attenuating circumstances at the time of his death. [illegible] The unregistered will is now with the Govt. The Collr wants to know beforehand what the opinion of an expert is in regard to the genuineness of the will before [illegible] deciding the question of filing a suit. Under GOMs 1790 Law (Genl) d/ 14-6-34, the Examiner of Questioned Documents, Intelligence Bureau Home Dept, New Delhi is the Expert to be consulted in such matters with the sanction of the Govt. He is to be paid a fee of Rs185/- each in advance excluding T.A. - vide rules 8 & 15 at pp 2-3 of the G.O. The T.A. of the Examiner & his peon will come ~~to~~ about Rs 200/-. The cost of filing the suit will be about Rs 200/-. The total expenditure will be Rs 585 or Rs 600/- in round figures. The total value of the property likely to be recovered is abt Rs 1500/- and this after an initial expenditure of Rs 600/-. It is for consideration whether it is not sufficient to file the suit only for the ~~suit~~ present, and letting in expert evidence ~~[illegible]~~ — relied upon by the Court as when the Case proceeds ~~solely and the~~ ~~[illegible] opportunity police witnesses to [illegible]~~ ~~the Case by reason of possession of the property~~.

8.8.34
8 [illegible]
0 12838

But it is a fact that under the Aliyasantana law a widow ha no rights of inheritance whatever even when there are no male heirs. It seems most unfair that Govt sh seek to obtain escheat of the prope at the expense of the widow irrespectiv legalities & it ought to be a rule the widow's "natural" rights shd not be disregarded.

63/6

Issued as BD's refce dt 22.8.38

2 Secy.

Please see the Collector's ~~reply~~ letter in reply to BD's refce at p. 5 c/s.

2 In the circumstances stated therein, the Collector may be requested to file the suit for the present as already submitted at p. 4 N. ante.

12.4.38

12/9

I do not see that Govt is under an obligation to deprive the widow by Sircar's proceedings. Even if the law does not recognise widow's rights amongst private persons there can be no reason to deprive the widow of her possession.

The case may if necy be reported to Govt on these lines.

12/9

13/9

It's strange that no one in this office knows about the Aliyasantana Law of Inheritance. This file says a widow has no interest in her husband's property — apparently she is left to starve. This is a remarkable proposition..... It has been discussed at length in public apparently in the old Legislative Council. Please consult the proceedings and examine the Bill – in Act with Objects+ & Reasons & explain this strange custom. The property is a small one so we need not hurry about ~~[illegible]~~ claiming Escheat (Rs 1530/-).

J
14/9

p. 7 CF.

+ p 248 of part IV Gaz 7.5.88 or 18 8 31 - [illegible]

SECY.
14 SEP 1934

S
[illegible]

To Secy.

Please see M I's remarks above.

2 Refce is in this connection invited to

(1) Appendix ~~[illegible]~~ III of the Srinivasiangar's Edition of Mayne's Hindu Law

pp 963-989 of the Book put up

(2) Chap XVIII of Malabar & Aliya Santhana law by late P. R. Sundara Ayyar a Judge of the High Court of Judicature.

pp 243-248 of the Book put up.

3 The literal meaning of the word "Aliya Sanath..... is inheritance ~~[illegible]~~ through nephews & nieces.

p 967 of Mayne's Hindu Law put up

4 According to Bhutala Pandya (the codifier of the original rules of Aliya Santhanam law), the children of senior or junior maternal aunts, the eldest male, the eldest female shall stand for aliyali (succession or survivorship; the rest shall not be entitled for partition. No property shall be given to wife & children on the

pp 332-333 of the book put up (Sundara Ayyar's book) the plea that there are no [illegible]. This [illegible] to have been followed since - vide I.L.R. [illegible] Madras p. 377 & page 247 of Sundara Aiyar's Book. widow would appear to have a charge [illegible] maintenance ~~of~~ on the husband income.

5. The Leg. Council discussions on Marumakkathayam Bill have been looked into. They do not throw much light on the subject. There was a proposal to include the provisions in the Marumakkathayam Act but the [illegible] [illegible] [illegible] it was praised by the Leg. Council & was not [illegible] to by H. E. the Diwan - vide p 334, & 454-456 of the Leg. Council proceedings

put up

6. Orders are requested on the notes at [illegible] ante.

4/10
24.

7/10/38.

It is accepted at p. 277 of Mill R vol. put up that a wife & children have no share in the inheritance of the husband's property.

The question is whether advantage should be taken of this to institute Escheat proceedings. The Escheating Sircar is in order. In equity it is unjustifiable to deprive the widow of her property.

11/10.

Note it the [illegible] . The will is at p 146 of K R No. 85/1347 as now paged

It bears a sufficient likeness to the other signatures with which it is compared to make it very difficult to convince a court that the natural action which the will represents did not ~~[illegible]~~ take place. The escheat should not ∴ be claimed.

12/10

SECY.
12 OCT

To Secy

Draft subd

18/10

d/
14.10.38

SB
15/10

CIRCULATION CHECK SLIP:

B.P.No. 2913 Dis

Dated 18.10.38

Single Member.

~~Two-Members.~~

~~Full-Board.~~

I.A.	A.D.S. & L.R.	Asstt:Sucy. L.R.	Sett.	Sep: Rev.	J.S.	Secy.	M - 3	M - 2

(1) Open file seen by

(2) Final draft seen by

(3) Now circulated to. ml

(4) Initials. ds 1/11/38

1/11

Passed for record.

~~**Secretary~~

~~Joint Secretary.~~

A.S. (L.R)

A.S. (Sett)

A.S. (Sep:Rev)

~~A.D.S. & L.R.~~

I.A.

1.11.38

ds 1/11/38

**N o t e.- ENTRIES NOT REQU TO BE SCORED OU